

## **REMARKS**

### **Allowed and Allowable Claims**

Claims 20-29 have been allowed. Claims 2-5, 9, 10 and 32-35 have been objected to, but have been indicated as allowable if rewritten in independent form. To that end, the Applicant has rewritten claim 9 in independent form. Accordingly, the Applicant submits that rewritten independent claim 9 is now in condition for allowance. Additionally, claim 10 depends from rewritten independent claim 9 and is also in condition for allowance.

### **Specification**

At the request of the Examiner, the Applicant has reviewed the specification and is not aware of any errors that require correction.

### **Claim Rejections – 35 USC §102 and 103**

Claims 1, 6-8, 11, 12, 14-19, 30, 31, 36 and 38-40 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,414,482 to Mase (hereafter “the Mase reference”). Additionally, claims 13 and 37 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Mase reference in view of U.S. Patent Application Publication No. 2003/0137291 to Wendel et al. (hereafter “the Wendel reference”).

It is well established that “an invention is anticipated if the same device, including all the claim limitations, is shown in a single prior art reference. Every element of the claimed invention must be literally present, arranged as in the claim.” Richardson v. Suzuki Motor Co. Ltd., 9 USPQ.2d 1913, 1920 (Fed. Cir. 1989).

### **Independent Claim 1 and Dependent Claims 2-19**

Independent claim 1 was rejected as being anticipated by the Mase reference. Independent claim 1 has been amended to recite that the first magnetic flux sensor disposed within the first magnetic field is “at least partially positioned between said magnet and a portion of said first pole piece”, and that the second magnetic flux sensor disposed within the second

magnetic field is “at least partially positioned between said magnet and a portion of said second pole piece”. As illustrated in Figure 8 of the Mase reference, no portion of the sensor 126 is positioned between the magnet 130 and the pole piece 129. As a result, independent claim 1, as now amended, clearly defines over the Mase reference or any other reference of record, whether considered alone or in combination. Accordingly, the Applicant respectfully requests withdrawal of the rejection of independent claim 1 and allowance of the same. Claims 2-8 and 11-19 depend either directly or indirectly from independent base claim 1 and are patentable for at least the reasons supporting the patentability of independent base claim 1.

**Independent Claim 20 and Dependent Claims 21-29**

Independent claim 20 and dependent claims 21-29 have been allowed.

**Independent Claim 30 Dependent Claims 31-40**

Independent claim 30 was rejected as being anticipated by the Mase reference. Independent claim 30 has been amended to recite that the first pole piece cooperates with the magnet to provide a first magnetic field “at least partially extending across a first air gap positioned between said magnet and a portion of said first pole piece”, and that the second pole piece cooperates with the magnet to provide a second magnetic field “at least partially extending across a second air gap positioned between said magnet and a portion of said second pole piece”. As illustrated in Figure 8 of the Mase reference, the pole piece 129 does not cooperate with the magnet 130 to provide a magnetic field that at least partially extends across an air gap positioned between the magnet 130 and a portion of the pole piece 129, and with the sensor 126 disposed within the magnetic field to sense varying magnitudes of magnetic flux density. As a result, independent claim 30, as now amended, clearly defines over the Mase reference or any other reference of record, whether considered alone or in combination. Accordingly, the Applicant respectfully requests withdrawal of the rejection of independent claim 30 and allowance of the same. Claims 31-40 depend either directly or indirectly from independent base claim 30 and are patentable for at least the reasons supporting the patentability of independent base claim 30.

## CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the Applicant's application is now in condition for allowance with pending claims 1-40.

Reconsideration of the subject application is respectfully requested. Timely action towards a Notice of Allowability is hereby solicited. The Examiner is encouraged to contact the undersigned by telephone to resolve any outstanding matters concerning the subject application.

Respectfully submitted,

By: 

Brad A. Schepers  
Reg. No. 45,431  
Krieg DeVault LLP  
One Indiana Square, Suite 2800  
Indianapolis, Indiana 46204-2079  
(317) 238-6334 voice  
(317) 238-6371 facsimile